



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2021-0036; FRL-10151-02-R4]

Air Plan Approval; North Carolina; Source Testing and Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is finalizing the approval of changes to the North Carolina State Implementation Plan (SIP), submitted by the State of North Carolina through the North Carolina Division of Air Quality (NCDAQ), through a letter dated October 9, 2020. The SIP revisions include changes to NCDAQ's regulations regarding monitoring and performance testing for stationary sources of air pollution. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0036. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sarah LaRocca, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. LaRocca can be reached via electronic mail at larocca.sarah@epa.gov or via telephone at (404) 562-8944.

SUPPLEMENTARY INFORMATION:

I. Background

On October 9, 2020, NCDAQ submitted a SIP revision addressing changes to North Carolina's regulations on monitoring and performance testing for stationary sources of air pollution. Specifically, the revisions address several regulations under 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .0600, *Air Contaminants; Monitoring; Reporting*, and Section .2600, *Source Testing*.¹

The October 9, 2020, revisions to the North Carolina SIP mostly include changes that do not alter the meaning of the regulations, such as clarifying changes, updating cross-references, and making several ministerial language changes. However, as described in an August 24, 2022, Notice of Proposed Rulemaking (NPRM), other changes transmitted include requiring additional information in the source testing protocols and revising the required test methods in certain cases.

On August 24, 2022, EPA published a NPRM proposing to approve these revisions. Additional details on the revisions, as well as EPA's rationale for approving these changes, can be found in the August 24, 2022, NPRM. *See* 87 FR 51941. Comments on the August 24, 2022, NPRM were due on or before September 23, 2022. EPA received no comments on the NPRM.

¹ EPA notes that the Agency received several submittals revising the North Carolina SIP transmitted with the same October 9, 2020, cover letter. EPA will be considering action for these other SIP revisions, including certain 02D Section .0600 and Section .2600 rules not considered in this action, in separate rulemakings.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as specified in Section I of this preamble, EPA is finalizing the incorporation by reference of the following North Carolina rules, with a state effective date of November 1, 2019: Rule 02D .0607, *Large Wood and Wood-Fossil Fuel Combination Units*, Rule 02D .0608, *Other Large Coal or Residual Oil Burners*, Rule 02D .0610, *Federal Monitoring Requirements*, Rule 02D .0612, *Alternative Monitoring and Reporting Procedures*, Rule 02D .0613, *Quality Assurance Program*, Rule 02D .2603, *Testing Protocol*, Rule 02D .2604, *Number of Test Points*, Rule 02D .2605, *Velocity and Volume Flow Rate*, Rule 02D .2606, *Molecular Weight*, Rule 02D .2607, *Determination of Moisture Content*, Rule 02D .2608, *Number of Runs and Compliance Determination*, Rule 02D .2610, *Opacity*, Rule 02D .2612, *Nitrogen Oxide Testing Methods*, Rule 02D .2613, *Volatile Organic Compound Testing Methods*, and Rule 02D .2614, *Determination of VOC Emission Control System Efficiency*. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.²

III. Final Action

EPA is approving the October 9, 2020, SIP revisions to incorporate multiple changes to North Carolina’s source monitoring and testing provisions into the SIP. Specifically, EPA is approving various ministerial and minor changes to language and other clarifying changes throughout North Carolina’s rules in 02D Section .0600, *Monitoring: Recordkeeping: Reporting*,

² See 62 FR 27968 (May 22, 1997).

and .2600, *Source Testing*. EPA is approving these changes for the reasons discussed above and in the NPRM.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a

petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 30, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II - North Carolina

2. In § 52.1770(c), amend table (1) under “Subchapter 2D Air Pollution Control Requirements” by removing the entries for “Section .0607,” “Section .0608,” “Section .0610,” “Section .0612,” “Section .0613,” “Section .2603,” “Section .2604,” “Section .2605,” “Section .2606,” “Section .2607,” “Section .2608,” “Section .2610,” “Section .2612,” “Section .2613,” and “Section .2614;” and adding in their place entries for “Rule .0607,” “Rule .0608,” “Rule .0610,” “Rule .0612,” “Rule .0613,” “Rule .2603,” “Rule .2604,” “Rule .2605,” “Rule .2606,” “Rule .2607,” “Rule .2608,” “Rule .2610,” “Rule .2612,” “Rule .2613,” and “Rule .2614.”

The additions read as follows:

§52.1770 Identification of plan.

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(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Rule .0607	Large Wood and Wood-Fossil Fuel Combination Units	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .0608	Other Large Coal or Residual Oil Burners	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*

Rule .0610	Federal Monitoring Requirements	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule .0612	Alternative Monitoring and Reporting Procedures	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .0613	Quality Assurance Program	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule .2603	Testing Protocol	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2604	Number of Test Points	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2605	Velocity and Volume Flow Rate	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2606	Molecular Weight	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	

Rule .2607	Determination of Moisture Content	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2608	Number of Runs and Compliance Determination	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule .2610	Opacity	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule .2612	Nitrogen Oxide Testing Methods	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2613	Volatile Organic Compound Testing Methods	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule .2614	Determination of VOC Emission Control System Efficiency	11/1/2019	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
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